(2)

Single Bench (Criminal)

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

CRIMINAL APPEAL NO. 727 /1996

APPELLANTS: In Jail

1. Raju alias Sakra alias A Agrasendas s/o Chhabil Satnami, aged 19 years,

2. Dhanush son of Mohan Satnami, aged 22 years,

Both residents of Amera, Kakarbhata Distt. Bilaspur (MP)

5303
Filed on 19.4.96
by Shri B.J. Chandrasingh Advocate

R. to D.R. 19/4

-: VERSUS :-

RESPONDENT: State of Madhya Pradesh

CRIMINAL APPEAL UNDER SECTION 374(2) OF THE CODE OF

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr. A. No. 727/1996 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

11-05-2006

Shri Abhay Tiwari, learned counsel for the appellant **Raju**.

Appellant **Dhanush** is absent.

Shri Ashish Shukla, Govt. Advocate for the State.

Shri Ashish Shukla, learned Govt. Advocate submits that after verification from the Central Jail, Bilaspur, it has been found that appellant Dhanush has been released on 15-04-2005 upon grant of special reprieve.

Since neither the applicant Dhanush has appeared today nor any representation was made on his behalf and also in view of the submission made by the learned Govt. Advocate, the appeal preferred by Dhanush is dismissed for non-prosecution.

So far as the appellant **Raju** is concerned, learned Govt. Advocate submits that he would also be released on **12-08-2006** upon grant of special reprieve of 36 months & 28 days. A letter received from the Superintendent, Central Jail, Bilaspur is filed.

Shri Abhay Tiwari, learned counsel for the appellant **Dhanush** prays that he would press his appeal only on the question of sentence and not on merits.

In view of the submission, the appeal of Raju @ Sakra is heard finally today only on the question of sentence.

Shri Abhay Tiwari, learned counsel for the appellant **Raju** has urged that the appellant Raju was aged only about 22 years on the date of

(64) (60)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr. A. No. 727/1996 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

occurrence and is a first offender. It was contended that the golden Mohar alleged to have been looted from Mukhni Bai was not recovered from appellant Raju. In view of the sentence already undergone by the appellant Raju @ Sakra and also in view of the fact that upon grant of special reprieve, co-accused Dhanush has already been released from Central Jail, Bilaspur on 15-04-2005, it was prayed that the sentence awarded to the appellant Raju be reduced to the sentence already undergone by him.

On the other hand, Shri Ashish Shukla, learned Govt. Advocate has opposed the prayer.

Having considered the rival submissions, I have perused the record. The appellant Raju was aged about 22 years on the date of occurrence and was thus a youthful offender. No previous conviction is alleged against the appellant. Golden Mohar alleged to have been looted from the person of Mukhni Bai was also not recovered from the appellant Raju. The appellant has already suffered incarceration from 11-08-1995 to 04-09-1995 and 13-04-1996 to 01-09-1999 and thereafter 28-02-2006 till date. Co-accused Dhanush has already been released from Central jail, Bilaspur on 15-04-2005 upon grant of special reprieve. In this view of the matter, interest of justice would be served if the sentence awarded to the appellant Raju @ Sakra is reduced to the sentence already undergone by him.

[पीछे देखिये

(65) (61)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr. A. No. 727/1996 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 3 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
Tumane	In the result, this appeal is partly allowed. Conviction of the appellant Raju @ Sakra under Section-397 of IPC is maintained. However, the sentence awarded to the appellant Raju @ Sakra is reduced to the sentence already undergone by him. Sd/- Dilip Raosaheb Deshmukh Judge 15/05/06	

Date.....200